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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,189	03/23/2004	Dan Lafontaine	391-B04.US	2018

7590 04/21/2006

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EXAMINER
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SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/806,189	LAFONTAINE ET AL.	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 26-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 25 is/are rejected.
- 7) ☒ Claim(s) 8-19 and 21-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/23/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/13/06 &amp; 3/23/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second case guides being raised and lowed must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 20 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim 2 is objected to because of the following informalities: the last line of claim 2 recites "...the same product...", which lacks antecedent basis. Correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US Patent number 1,800,898) in view of Wolfram (US Patent number 4,411,350) and Howell et al. (US Patent number 5,361,889).

Nelson discloses an order merging system comprising receiving stations (2, 3, 4), warehouse (9), a pair of first case guides (outer portions of 5, 6) having a pair of twisted lanes (see Figure 1) guiding at least one product case therealong in each of the first case guides, a pair of second case guides (7, 29) wherein the first case guides merge into the second case guides, two independent accumulating conveyors (5, 6, 7) conveying different products wherein each accumulating conveyor having at least one pair of the first case guides (5, 6), a mixing conveyor (8) for feeding cases away from the accumulation conveyors wherein the mixing conveyor (8) being connected to the accumulating conveyors and located downstream therefrom, wherein the mixing conveyor (8) includes the second case guides thereby first and second case guides being continuous.

Nelson as disclosed above, fails to show a pair of raisable guides and a pair of twisted lanes being downwardly sloped.

Wolfram does disclose a pair of twisted lanes being downwardly sloped (see Figure 1).

Howell et al. does disclose a raisable guide (see Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nelson's lanes to be downwardly sloped as taught by Wolfram and to add raisable guides as taught by Howell, in order to provide for a

conveyor system capable of more efficiently conveying products from one point to another. It is also within the purview of one having skill in the art to add a pair of raisable guides, one for each lane.

Claims 4, 5 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US Patent number 1,800,898) in view of Wolfram (US Patent number 4,411,350) and Howell et al. (US Patent number 5,361,889) further in view of Spaude et al. (US Patent number 4,021,992).

Nelson as disclosed above, fails to show depalletizing and palletizing stations.

Spaude et al. does disclose depalletizing and palletizing stations (each area below risers 21 in Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nelson's receiving stations and warehouse to incorporate palletizing and depalletizing stations in order to provide for a conveyor system utilizing pallets or depending on the user's needs. Accumulating conveyor systems, often include palletizing and/or depalletizing stations.

### ***Allowable Subject Matter***

Claims 8-19 and 21-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Dependent claims 8 and 21 recite the structural limitations of an order merging

Art Unit: 3651

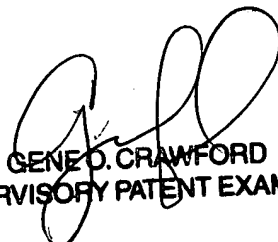
system comprising a conveyor end portion being hingably connected to the sloped gravity conveyor, thereby moving laterally relative to the sloped gravity conveyor and wherein the depalleting station includes a main support frame having a meszzanine level with a lift access opening therein, the lift access opening being sized and shaped to receive therethrough a pallet having thereon the product case, in combination with the rest of the recited structure, clearly defines over the prior art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER